IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 4804 of 2005

Between:

M/s. Azam Foods Products Pvt Ltd., rep. by its Managing Director, Mohd. Azam S/o. Mohd. Fazil, R/o. 28-142, new Bazar, Jadcherla, Mahaboobnagar District.

..... PETITIONER

AND

1 The Chairman, Andhra Bank, Head Office, Dr. Pattabhi Bhavan, Saifabad, Hydeabad.
2 Andhra Bank, Jadcherla Branch, rep. by its Bank Manager, Jadcherla, Mahaboobnagar District.
3 G. Prabhakar Reddy, Andhra Bank, Jadcherla Branch, Jacherla, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue Writ, order or direction, more specially a writ of Mandamus or any other appropriate Writ directing the 1st respondent to consider the representation dt. 13.01.2005 favourable by declaring the action of the 3rd respondent in issuing letter No.0262/18/203 dt. 23.02.2005 in retaliation to the representation dt. 13.1.2005 as arbitrary illegal and unconstitutional and pass such other order or orders as this Hon'ble Court may deem fit and proper under the circumstances of the case.

Counsel for the Petitioner : MS. I.MAAMU VANI

Counsel for the Respondents : MR.NUTY RAM MOHAN RAO

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.4804 OF 2005

ORDER :

The petitioner seeks a Writ of Mandamus directing the first respondent to consider the representation dated 13-01-2005 and to declare the action of the third respondent in issuing the letter dated 23-02-2005 as arbitrary and illegal.

It is not in dispute that the petitioner has availed a term loan of Rs.1,36,00,000/- and open cash credit upto Rs.50,00,000/- from the second respondent Bank. The second respondent alleges that both the term loan as well as open cash credit account were declared as non-performing assets in accordance with the guidelines issued by the Reserve Bank of India on 21-2-2005 and as on that date a sum of Rs.1,06,06,325/- is outstanding on account of term loan and on account of OCC Limit the outstanding is Rs.1,51,17,388/-. Since the petitioner could not pay the amounts due, the second respondent has seized hypothecated stocks i.e., paddy, rice and gunny bags on 22-02-2005 under Panchnama. Thereafter, by letter dated 23-02-2005 the petitioner

was called upon to repay entire dues on or before 13-03-2005 failing which seized stocks will be sold through auction inviting tenders. Aggrieved by the said action, this writ petition is filed.

The case of the petitioner is that since he was not in a position to discharge the debts, he has decided to sell away the property offered as collateral security for which the 2nd respondent has also consented. However, on account of certain doubts expressed by the prospective buyers, the petitioner sought for certain clarifications from the 2nd respondent. But, in the meanwhile the 2nd respondent has been initiating coercive steps against the petitioner demanding payment of the amounts outstanding. The 2nd respondent has locked the mill thereby preventing the petitioner from running the mill. The petitioner was not even allowed to remove the stocks lying in the mill worth about Rs.50 lakhs. In the circumstances, the petitioner made a representation dated 13-01-2005 requesting the first respondent - Chairman of Andhra Bank to instruct the second respondent on the following aspects :

i. *to open the locks put up by them on Azam Food Product Pvt. Ltd., and hand over the keys to us, thereby allowing us to operate the Mill, process the paddy and sell the finished stock;*

ii. *to allow us to operate the account;*

iii. *to waive the interest for the period during which the mill is locked up by the Branch Manager and retained with him; and*

iv. *to issue permission letter to release the title deeds of the collateral security worth Rs.47.45 lakhs after depositing Rs.50 lakhs only by the prospective buyer of the property.*

The grievance of the petitioner is that while the said representation is pending with the first respondent, the second respondent has been taking coercive steps for recovery of the amounts due and the seized property is likely to be brought to sale in pursuance of the letter dated 23-02-2005. Hence, this writ petition.

On behalf of the respondents 2 and 3, separate counter-affidavits have been filed denying the allegations made by the petitioner and stating that since the petitioner was not taking any steps for repayment of loans, the second respondent was constrained to initiate steps under the letter dated 23-02-2005.

Heard the learned Counsel for both the parties and perused the material on record.

As can be seen from the material on record, the representation made by the petitioner dated 13-01-2005 is still pending before the first respondent. In the said representation, the petitioner has not only requested for opening the locks put to mill and to release the seized stock, but also sought permission to release the title deeds deposited with the Bank and for consequential reliefs. The learned Counsel for the petitioner states that in case the said representation is considered favourably, the petitioner will be in a position to clear the entire dues and in the meanwhile if the stocks are sold, the petitioner would be put to irretrievable injury.

Having regard to the facts and circumstances of the case, without expressing any opinion on merits, I deem it appropriate to dispose of the writ petition with a direction to the 1st respondent to dispose of the representation of the petitioner, dated 13-1-2005 as expeditiously as possible preferably within a period of three weeks from the date of receipt of this order. Till such time, the second respondent is directed not to take any coercive steps as indicated in the letter dated 23-02-2005.

The Writ Petition is accordingly disposed of. No costs.

14th March, 2005.

gbs

To

1 The Chairman, Andhra Bank, Head Office, Dr. Pattabhi Bhavan, Saifabad, Hydeabad.
2 The Bank Manager, Andhra Bank, Jadcherla Branch, Jadcherla, Mahaboobnagar District.

3. 2 CD copies